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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,307	04/13/2005	Kenji Suzuki	270484USPCT	6324
22850 7590 05/03/2010 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
MULLS, JEFFREY C				
ART UNIT		PAPER NUMBER		
1796				
NOTIFICATION DATE		DELIVERY MODE		
05/03/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/531,307

**Applicant(s)**

SUZUKI ET AL.

**Examiner**

Jeffrey C. Mullis

**Art Unit**

1796

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 4 and 79 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4, 7 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claims 1, 3, 4, 7 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear how the "aromatic vinyl compound unit" of lines 6-7 of claim 1 can be said to contain alkyl styrene units in the "aromatic vinyl compound unit" is monomeric and not composed of anything but itself.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 4, 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toshinori (JP 03-070761), newly cited by applicants, optionally in view of Dekking et al. (US 3,661,620).

Patentees disclose a composition containing a block copolymer and a thermoplastic (Abstract) in a ratio of 5:95 to 95:5 also containing a softener at a level of 40-80 parts based on 100 parts of thermoplastic and block copolymer (page 7, of the Japanese language patent; see also the first complete paragraphs on pages 22 and 23 of the translation). Note the last complete paragraph on page 11 where it is disclosed that a monomer such as methyl styrene may be used as the vinyl aromatic monomer for

forming the block copolymer. The thermoplastic may be polymethyl methacrylate (page 6 of the Japanese language patent as well as page 19, line 6 of the translation).

There are no specific examples in which all of applicants materials are present in combination in applicants amounts. However, it would have been obvious to a practitioner having an ordinary skill in the art at the time of the invention to arrive at applicants invention by selecting from the various disclosures of the patent in the expectation of adequate results. With regard to applicants abrasion characteristic, since the material of patentees and applicants are similar, similar or identical characteristics would be expected to be inherent. In any case Dekking at column 1, lines 10-15 discloses that it is common in the art to improve abrasion resistance of thermoplastics. Hence it would have been obvious to a practitioner having an ordinary skill in the art at the time of the invention to provide applicants abrasion resistance to the primary reference since the secondary reference discloses that high abrasion resistance is desirable absent any showing of surprising and unexpected results.

Applicant's arguments filed 12-23-09 have been fully considered but they are not persuasive. Applicants present arguments through page 7 are substantially the same as those in applicants after FINAL amendment of 10-19-09 and with regard to those arguments previously submitted applicants are referred to the examiner's response in the advisory action of 11-4-09. It is noted that the claims as now of record still encompass block copolymers with blocks of 100% methyl styrene. With regard to applicants arguments that the combination of references do not suggest a transparent composition, even if correct is immaterial given that applicants claimed composition is

not necessarily transparent for at least the reason that opacifying materials are not excluded. It is immaterial that a claim may read on unobvious subject matter where as in the instant case the claim also reads on obvious subject matter. Similarly it is immaterial that the claims read on abrasion/scratch resistant filler free compositions where as in the instant case the claims also read on abrasion/scratch resistant materials containing large amounts of filler. Since abrasion resistance can be conferred by addition of filler it is immaterial what features are selected from the primary reference since no matter what features are selected it reasonably appears that an abrasion resistant material can be produced by addition of filler. Applicants argue that Toshinori do not disclose which combination of components leads to improved transparency but such is immaterial where the claimed composition is not required to be transparent. Applicants argue that addition of inorganic filler to improve abrasion resistance is not applicants invention but have not pointed to any claim limitation in support of their argument. Limitations from the specification are not read into unpatented claims. The instant claims recite open language and do not exclude inorganic filler and in fact applicants own specification discloses its use.

Any inquiry concerning this communication should be directed to Jeffrey C. Mullis at telephone number 571 272 1075.

Jeffrey C. Mullis  
Primary Examiner  
Art Unit 1796

JCM

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4-26-10

/Jeffrey C. Mullis/

Primary Examiner, Art Unit 1796